

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CHAMBERS
THOMAS W. THRASH JR.
U. S. D. C. Atlanta

JUL 9 2010

JAMES N. HATTEN, Clerk
Swall Deputy Clerk

WILLIE JAMES TERRELL, JR., :
Inmate No. 893844, : PRISONER CIVIL RIGHTS
Plaintiff, : 42 U.S.C. § 1983
v. : CIVIL ACTION NO.
JUDGE CRAIG L. SCHWALL; et : 1:10-CV-1927-TWT
al., :
Defendants. :

ORDER AND OPINION

Plaintiff seeks leave to file the instant civil rights action without paying the \$350.00 filing fee. According to Subsection (g) of 28 U.S.C. § 1915, a prisoner is prohibited from bringing a civil action in federal court in forma pauperis “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.”

This Court’s records indicate that Plaintiff has filed numerous complaints and appeals, the following of which were dismissed prior to service of process as frivolous: Terrell v. Grady Mem’l Hosp., Civil Action No. 1:08-CV-3931-TWT

(N.D. Ga.); Terrell v. Fulton County, Civil Action No. 1:09-CV-513-TWT (N.D. Ga.); and Terrell v. Grady Mem'l Hosp., Appeal No. 09-130770D (11th Cir.). Furthermore, there is no indication that Plaintiff is “under imminent danger of serious physical injury.” Accordingly, leave for Plaintiff to proceed in forma pauperis is hereby **DENIED**.

According to the Eleventh Circuit, “the proper procedure is for the district court to dismiss the complaint without prejudice when it denies the prisoner leave to proceed in forma pauperis pursuant to the three strikes provision of § 1915(g). The prisoner . . . must pay the filing fee at the time he initiates the suit.” Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002).

IT IS THEREFORE ORDERED that the instant action is hereby **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED this 9 day of July, 2010.


THOMAS W. THRASH, JR.
UNITED STATES DISTRICT JUDGE